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SUPREME COURT, U. S.

No. 73-603

In the Supreme Court of the United States

OCTOBER TERM, 1973

CARMINE TRAMUNTI, PETITIONER

v.

HONORABLE ARNOLD BAUMAN,
UNITED STATES DISTRICT JUDGE FOR
THE SOUTHERN DISTRICT OF NEW YORK, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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Petitioner seeks review of the denial by the court of appeals of his petition for a writ of prohibition or for an order directing the district court to dismiss the perjury indictment pending against him. His contention is that trial on the perjury indictment would constitute double jeopardy. His petition to this Court was accompanied by a motion for stay of trial, which was denied by Mr. Justice Marshall on October 5, 1973. Trial on the perjury indictment commenced on October 18, 1973, and on October 25, 1973, petitioner was convicted. His effort to forestall trial is therefore now moot. His double jeopardy contention can be heard in due course on appeal from his conviction.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

DECEMBER 1973.

DOJ-1973-12